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THE SEWANEE REVIEW.

VOL. V.]

APRIL, 1897.

[No. 2.

JUDAH PHILLIPS BENJAMIN.

Of all reputations which are attained by men of the highest order of intellect, there can be no doubt that those of men who have distinguished themselves at the profession of law are the shortest lived. Many men, when the name of the greatest man of his age, Lord Francis Bacon, is mentioned as a lawyer, only remember that he was such, because of the fact that he was driven from the woolsack for having accepted bribes from suitors, and are entirely ignorant of the great ability and shrewdness he displayed in the successful prosecution of the Earl of Essex for treason in his early life under circumstances that made it appear almost impossible to secure a conviction, and have no recollection of the able and correct opinions delivered by him as Lord Chancellor in rendering judgments, some of them in the very cases in which he was accused of bribe-taking—and parenthetically it may be stated that there was never any question of the correctness of his judgment in any of the causes in which he did accept bribes. The true reason for the brief reputations attained by those who are great lawyers lies probably in the fact that those reputations are made in causes in which generally but few persons have an interest; or if in a cause in which the public feels an interest, the display of genius is at the forum and lives only in the memory of those who witnessed and heard it. Some few lawyers of this class either go upon the bench and leave behind them opinions, or write books on law subjects, which show their great ability; but these are soon forgotten by

the great mass of people, and in a few years are only remembered by the studious lawyer who, in seeking for authority to sustain his point, delves into antique legal lore and finds in the midst of much rubbish some legal gem that excites for a short while his admiration of the genius that penned it, but which is soon forgotten in the investigation of other questions. The truth of what has been here written was, perhaps, never better illustrated than in the life of the great lawyer who is the subject of this paper, for that he was a great lawyer, one of the greatest who has lived in this century, no one will deny. Yet his greatness as such lives among those outside of his own profession only in the memory of those who were his contemporaries, and in a few fragmentary articles that appeared in the press of his time telling of the wonderful ability displayed, and the almost unparalleled success attained by him in the practice of his profession.

Judah Phillips Benjamin was the son of English Jews. In 1811 his parents sailed from England to settle in Louisiana, but before reaching the Mississippi they learned that the mouth of that river had been blockaded by a British fleet, so they put into St. Croix, then a possession of Great Britain, where he was born in the same year. Subsequently, the family came on to this country and settled in Wilmington, North Carolina. His father seeing, no doubt, in the boy evidences of that great ability which in after years was so conspicuously displayed, though of but limited means, undertook to give him a thorough education, and at the age of fourteen sent him to Yale, where he remained three years. He left college without taking a degree, and in 1832 he went to New Orleans and entered a lawyer's office for the purpose of studying his chosen profession. He was without means to support himself; therefore, while reading law, he procured an appointment as notary, and also taught school. He discharged the duties of both positions to the entire satisfaction of his clients and patrons and displayed that honest, conscientious devotion to duty which was the marked character-

istic of his whole life, and no doubt contributed no less than his great genius to his wonderful success. While thus engaged he also compiled a digest of the decisions of the Louisiana courts for his own use, which he freely loaned to any and all who desired it, and which was said to have been most accurate and comprehensive. When he went to New Orleans he was ignorant of the French language, and one of his objects in teaching was that by teaching those English who understood French, he might learn from them the French. He soon became a great favorite with those with whom he came in contact, and won the hearts of all by his gentle and charming manners. It is related of him that, among those whose friendship he had so won, was a celebrated physician, a wealthy planter friend of whom desired a tutor for his daughter. The doctor recommended Benjamin to him and brought them together for an interview. A few hours after the interview the planter returned to the doctor and the latter inquired of him how he liked his young friend. To this inquiry the planter replied with some irritation: "Oh, he won't suit at all; my daughter would run off with him in three weeks after she made his acquaintance." After a few years of study he was admitted to the bar, and formed a partnership with John and Thomas Slidell. His success was immediate, and after practicing a comparatively short time, he accumulated sufficient money to buy him a sugar plantation. He then gave up the practice and threw himself with all his untiring energy into the business of planting, mastered the science, and wrote articles on the chemical and mechanical agencies and appliances best adapted for extracting saccharine matter from the cane that were as clear and as able as his briefs in law cases, and won for him the reputation of being a famous planter. After following this business with success for some few years, his whole property was destroyed by overflows, and he was forced to go back to the practice of his profession, in which he succeeded as he had done before. After the war with Mexico and the annexation of California, he received an

appointment from the Federal Government to represent it in settling certain disputed land titles. Associated with him in this was Reverdy Johnson, the celebrated lawyer of Maryland. He was elected United States Senator in 1852 as a Whig and took his seat in 1853, but soon thereafter, the Whig party having been swallowed up in the Know Nothing party, he became a Democrat. During his first term in the Senate he was offered a place upon the bench of the Supreme Court of the United States, but declined. After his first term in the Senate, he was reëlected for the second, and remained in that body until his State seceded. He had not been in the Senate long before he was recognized as the peer of the ablest debater in that body, and as an orator was esteemed the most brilliant among many brilliant. Charles Sumner declared that he was the most brilliant orator in the Union. It is related that, after reading his great speech upon leaving the Senate, after the secession of Louisiana, in defense of her right to do so, and in justification of her action, a speech, which, to use the language of a leading English paper, "sent an electric thrill throughout the whole civilized world," Sir George Cornwall Lewis said to Lord Sherbrooke, "Have you read Benjamin's speech? It is better than our Benjamin (meaning Disraeli) could have done." A high compliment, especially coming from an Englishman, for there have been but few orators equal to that great Englishman, who in subsequent years showed himself as great a statesman and a diplomatist, as he had been an orator in his younger days.

While in the Senate, few cared to join debate with Mr. Benjamin, and no one ever tried more than once to insult him or sneer at him. On one occasion, Mr. Davis used towards him language which could not be replied to in the Senate. As soon as that body adjourned for the day a note was sent to him by Mr. Benjamin, demanding an unequivocal and immediate retraction. Upon being handed the note, Mr. Davis said that he would reply the next day in the Senate, and he did.

With a true courage, characteristic of the manly man that he was, in the same public manner in which he had offered the insult he retracted it, and apologized to Mr. Benjamin. No doubt then and there began the friendship and confidence that continued to exist between these two great men so long as they lived. On another occasion a Senator from Kentucky alluded to him sneeringly, as "that Jew from Louisiana." In his reply Mr. Benjamin said: "The gentleman from Kentucky, forgetting his honorable and exalted position, has stooped so low as to assail me on the point of my religious faith. Sneeringly he calls me a Jew. Well, sir, I am a Jew. But, (shaking his finger at the Senator) when his ancestors were herding swine upon the plains of Scandinavia, mine were following the Maccabees to victory." It may be taken for granted that the Senator from Kentucky sneered at him no more. Mr. Benjamin, after the organization of the Confederate Government, became its Attorney General, and subsequently, for a few months, Secretary of War. Early in 1862, however, he was made Secretary of State, and held this position to the end. The last was a position much better suited to his tastes and order of intellect than that of Secretary of War, and he brought to the discharge of its duties all of those great qualities of mind for which he was so distinguished. It may be supposed that, as the Confederate States were blockaded from the rest of the world, and had but little intercourse with the outside countries, that the duties of the position were light. But such was not the case. The Secretary of State should be the chief adviser of the Chief Executive, and Mr. Benjamin was such. Mr. Davis relied on him greatly and had the utmost confidence in him. He is said to have declared that his capacity for work was far greater than that of any man he ever knew; and it is a well-known fact, that, during the time he was Prime Minister of the Confederacy, his rule was to go to his office at 8 A.M., and to remain there with only short intervals until one or two the next morning. He was always sanguine of the success of the cause in

whose success he had staked his all, and confidently expected the recognition of his Government by England and France, and it was no doubt, principally by means of his diplomacy, that that desire came so near being realized on several occasions.

When the war ended, Mr. Benjamin escaped to England, where he found himself an exile without means, and ostensibly without the capacity to earn a livelihood, for while a lawyer of reputation and ability, he had been trained in a different system of laws from that of force in England, and could have had but little practical knowledge of the common law. But there was nothing else for him to do, and as he was in the eyes of the English law a British subject having been born in a British possession, and not, therefore, barred from admission by reason of being an alien, he determined to prepare himself for admission to the English Bar. What he had to do, and what he did do, is best told in a letter written by him to an old friend in this country, which has been kindly furnished me by a near relative of his; so much of the letter as bears upon the subject is as follows:

LONDON, 21 February, 1866.

MY DEAR BRADFORD:—I am now entered as a student at Lincoln's Inn and do not expect to be called to the bar till next fall. I found on inquiry that it would be more difficult than I had anticipated to get a dispensation from the rules of the different Inns of Court, all of which require the keeping of twelve terms, i. e., three years, before a call to the bar. These terms are kept as you are aware simply by eating a certain number of dinners in the Hall of the Society or Inn, that is to say, six dinners in each term. I felt of course that I was not at all prepared to practice under the English law, and after consultation with friends, I concluded that the best plan was to enter Lincoln's Inn, to keep *four* terms, employing myself in close study, and at the end of that time, (having in the interval made as much interest as I could manage with the Benchers of the Inn) to apply for a special exception and relaxation of the rules in my favor. In the meantime I am making enough to pay for my personal ex-

penses by an engagement to contribute one leading article a week to one of the daily papers, for which I am paid £5 per week, and am thus enabled to devote the small sum that I was able to save from the wreck, to the maintenance of my family till I can obtain some practice at the bar. I think I have enough with close economy to get through three years and by that time may be able to secure a decent practice. I could now make £600 or £800 a year by consenting to become sub-Editor of the daily paper I refer to, but that would take up nearly all my time and prevent my preparation for the bar. I therefore restrict myself to one article a week, altho' they offer to pay me for as many more as I choose to write, not exceeding three a week. It will I know interest you to learn what were the forms, etc., attending my admission to the Inn. So I shall even incur an extra postage to enclose you the regulations. I had to pay on admission the following sums: Stamps £25 2s. 6d. Lectures £5 5s. Admission fee £5 12s. 6d. Printed forms £1 1s., making a total of £37 1s. I had then to deposit £100 as security that I would pay for my dinners. The next step was to enter a barrister's chambers with a view to learn the course of practice, and for this the fee was £105. I am now in the chambers of Mr. Charles Pollock, son of the Chief Baron of the Exchequer Sir Frederick Pollock. I am very kindly treated on all sides, and was invited by the Chief Baron to spend a day with him at his country seat at Hatton. We went down on Saturday P.M., and returned on Monday morning and I spent a most charming day; the old gentleman, although eighty-three years old, being as lively and sportive as a boy. You would be greatly amused to see our dinner at Lincoln's Inn. There are tables at the head of the room for the Benchers, who are the old leaders of the bar, such as Lord Brougham, Lord St. Leonards, Sir Roundell Palmer, Sir Hugh Cairnes, etc., etc. Next come tables for the barristers, of whom some forty or fifty always are found at dinner; next the students to the number of about one hundred and fifty including your humble servant, all seated at long tables, and dressed in stuff gowns, which the waiters threw over us in the ante-chamber before we enter the dining hall. To each four persons, who constitute a mess, the waiter serves a dinner composed of soup, one joint and vegetables, one sweet dish, and cheese, a bottle of sherry or port at choice is allowed to each mess (fiery stuff

it is) and bitter beer *ad libitum*. The charge for the dinner is two shillings. No one at mess helps another, but the etiquette is each in turn helps himself, one being first for soup, the next first for the joint, and so on. One dines almost every day with some stranger, but the rule is that all are presumed to be gentlemen, and conversation is at once established with entire *abandon*, as if the parties were old acquaintances.

When called to the bar I shall take the Northern Circuit which includes Liverpool where I hope to get my first start with the aid of some of our old clients there.

Yours ever truly,

J. P. BENJAMIN.

As was suggested by him, the rule was relaxed, and he was admitted to the bar after five months. His success was immediate, and in a few years his fees amounted to over ten thousand pounds a year, and continued to exceed that limit until he retired from the practice. Among strangers he maintained the same lofty pride that had actuated him in professional life in America. He always deserved respect, and permitted no man to treat him disrespectfully, either the highest or the lowest. On one occasion he was arguing a case before the House of Lords. Upon his statement of one of the propositions which he had formulated, one which, to use the language of an English lawyer detailing the circumstances, he had "put in its bare form, not supported by the substructure of reasoning which Benjamin could make to look so solid and compact, nor illustrated by example after example by his rich imagination," Lord Chancellor Selbourne exclaimed, "Nonsense!" Mr. Benjamin immediately stopped, gathered his papers together, tied them up, and with a low bow retired from the Bar of the House. His junior immediately arose and renewed the argument, but he had not proceeded far in his argument, when the Lord Chancellor expressed his regret that Mr. B. had retired, and stated, from the woolsack, that he was afraid he was the cause of his withdrawal by saying what he ought not to have said. This was a manly acknowledgement of wrong

brought forth by the dignified act of a man, whose manly pride had been inculcated and cultivated by association with the gentlemen who comprised the bench and bar of our country. After a few years, Mr. Benjamin refused to take any cases before the *Nisi Prius* Courts, and confined his practice to cases before the House of Lords, the Judicial Committee of the Privy Council, and the Court of Appeal. In 1883, by reason of failing health, he was compelled to give up the practice altogether. A little incident at this time illustrates the conscientiousness of the man. Of course he had been retained in many cases, the services in which had not been completed, and proposed to return his briefs to those from whom he had received them. But they, to a man, refused to permit him to do so. Upon his retirement the members of the English Bench and Bar gave him a dinner. Among those participating in this tribute were, Lord Chancellor Selbourne, Lord Chief Justice Coleridge, the Attorney General (Sir Henry James), and scores of other distinguished members of the English Bench and Bar. The Attorney General proposed a toast to Mr. Benjamin, and in an eloquent and touching speech, said, among other things:

Eighteen months ago the bar of England made acknowledgement of the worth and character of a great Judge; to-night the Bench and Bar unite to bid welcome and to wish God speed to an old and valued comrade. Remarkable and unprecedented as this gathering is, still the causes which have occasioned it are easy to tell. Yet to trace them we must recall some eighteen years that are past. It was then that the close of a great struggle had been reached. The strife of a nation had ceased. Some whom fortune had deserted found no longer a home in their own land. Among them was one who had taken a foremost part in that struggle. Civilian jurist as he was, while he had not carried, yet he had lived within the sound of, arms. And thus he had to bear the usual lot of vanquished men. Little save honor, reputation and great gifts remained to him. And so, passing from his old home and starting on the journey of a new life, he turned towards the people among whom his fathers had dwelt. Even already all

that I need tell you seems told, for you know the rest. You know how Mr. Benjamin came among us and how we received him. *Ejectum littore egentem accepimus*; but no regret, no self-reproach has ever come to us for having given him place within our kingdom. He knocked at our doors and they were widely opened to him. We found place for him in our foremost rank, we grudged him not the leadership he so easily gained—we were proud of his success, for we knew the strength of the stranger among us, and the Bar is ever generous even in its rivalry toward success that is based on merit. And the merit must have been there, for who is the man save this one of whom it can be said that he held conspicuous leadership at the Bar of two countries? To him this change of citizenship and transition in his profession seemed easy enough. From the first days of his coming he was one of us. We had been taught by the same teachers, Coke and Blackstone; Kent and Story had been, or at least ought to have been, our common guides, and it may be that the broad views of jurisprudence which Mr. Benjamin ever displayed taught us to know that it was not from English jurists alone that a true exposition of our law was to be gathered. But he was one of us not only in this common knowledge. The honor of the English Bar was as much cherished and represented by him as by any man who has ever adorned it, and we all feel that if our profession has afforded him hospitality, he has repaid it, amply repaid it, not only by the reputation which his learning has brought to us, but by that which is more important, the honor his conduct has gained for us."

Mr. Benjamin's reply was worthy of the man, pathetic, yet eloquent; in language such as could have been expected from the man on such an occasion. I cannot forbear from quoting portions of it. "I cannot for an instant attempt to disguise the feelings of joy, of gratification excited in my heart by the cordial, the generous reception you have been pleased to give to the ill-merited but eloquent eulogium of my friend the Attorney General. Still more am I embarrassed by the occasion which has given rise to this meeting. The feelings of joy and gratification are counterbalanced—more than counterbalanced by the reflection, unutterably sad, that to the large majority of those

present my farewell words to-night are a final earthly farewell—that to the large majority of you I shall never again be cheered by the smiling welcome, by the hearty hand grasp, with which I have been greeted during many years, and which has become to me almost the very breath of my life. It was on the 16th of December, 1832, that I was first called to the bar; and on the 7th of December, last, I had accomplished fifty years of professional life, when I left London for the purpose of enjoying a few weeks' Christmas vacation, without the remotest idea that I was not to resume my professional labors. But an insidious malady which has been gradually though imperceptibly undermining my strength, suddenly assumed an acute phase, and I was condemned by medical mandate to absolute repose. I was told that it was no longer possible for me to pursue an active professional life, and that at any excitement might at any moment prove fatal; and I received a firm intimation that I could not hope for any cure so effectual as to enable me at any future time to resume active exertion in my profession. In a word, I was pronounced a confirmed invalid, with possibly some uncertain extension of life, but solely upon the condition of absolute repose, and refraining from all possible excitement. I need hardly say to an audience like this that to tell me or any person of a nature like mine to abstain from all possible excitement is to tell him to cease the active exercise of the profession; for without the ardor of forensic contest what is the profession worth? It, therefore, only remained to me to submit, as best I might, to the medical interdict against active exertion."

And again he said, "From the bar of England I never, so far as I am aware, received anything but warm and kindly welcome. I never had occasion to feel that anyone regarded me as an intruder. I never felt a touch of professional jealousy. I never received any unkindness; on the contrary, from all quarters I received a warm and cordial welcome to which, as a stranger, I had no title, except that

I was political exile, seeking by honorable labor to retrieve shattered fortunes, wrecked in the ruin of a lost cause. This is a theme on which I could dwell for hours endeared as it is to me by reminiscences which can never fade away from my mind. But I am warned that I must not go on, and that excitement, however pleasurable it may be in thus recalling past times and passages in my career at the bar, however pleasing the excitement may be, I am warned that it is a pleasure in which I must not indulge, and therefore I must conclude by thanking you all from the bottom of my heart for the kind reception you have given me ever since I first came among you down to this magnificent testimonial, the recollection of which will never fade from my memory, and on which I shall always love to dwell."

In less than a year thereafter the dread malady, whose insidious hands already held him in their grasp, closed upon him with the grip of death, and the people of two hemispheres mourned the loss of one of this century's greatest men. Many tributes were paid to his memory, but none more deserved or more beautiful than that which appeared in the *Telegraph* of the morning following, a paper for which, in his early life in London, he had written much. This is as follows:

Such a career as that of Judah Phillips Benjamin is not likely to be repeated. The man and the circumstances were both unique. As a parliamentary and forensic record his life has all the fascinations of a brilliantly narrated romance. He conquered fame and fortune by the exercise of a robust, and at the same time subtle, intellect, and by rare gifts of expression and persuasion. His industry was immense. It was his custom to master every intricacy of the most lengthy brief — to leave no detail, however slight, unnoticed. Of him it may be truly said that he touched no legal subject which he did not adorn with the clear light of a luminous intellect and with the force and grace of an exquisite eloquence. He knew when to wait, and when to strike, both as a statesman and as an advocate. Men of his stamp are born to success. Yet the lesson of his arduous labors and their ultimate splendid reward in competence and reputation

is one which may be learned and acted on with advantage in less conspicuous spheres of action and by individuals to whom nature may have denied such original and lofty mental qualifications. Thoroughness was the prime secret of his success, and this first requirement of greatness would have served him equally well in almost any walk of life. Whatever work came to his hand he executed with diligence and in good faith. Hence, the high position which he acquired at the American Bar, the confidence he inspired in the United States Senate, and his authority in the councils of the rebel Confederacy. Beginning life afresh in a new country, and at an age when most professional men contemplate retirement from the active pursuit of their avocation, he took up the same line of action which had served him so well in the past, before the defeat of the Confederate cause drove him to seek a safe asylum upon our shores. That such an able and eloquent advocate should have found a warm welcome and a generous appreciation at the hands of the English Bar is, indeed, a high testimony to that great institution, and to the gifted stranger, possessed of strength of will and force of intellect to engage the unstinted admiration of kindred spirits, raised far above mean envy and petty jealousy.

That Mr. Benjamin's career was unique will be readily admitted — unique in its success, and unique in the circumstances under which that success was attained. It can but be both interesting and profitable to study the character of such a man, considering his physical, mental and moral nature. Physically, he would have always impressed the more critical observer: he was short of stature, being only about five feet five inches in height, broad shouldered, and well proportioned; his hands and feet were large, his head massive, and his eyes bright and sparkling with the genius that lay behind them. His moral character was without a stain; he loved truth for truth's sake, and in his intercourse with his fellow man was the very soul of gentleness. He delighted in bringing together in friendly intercourse those between whom differences had arisen, and it is said of him that while in the Senate at Washington, in those days of bitter political antagonism, when so frequently debates in the

Senate were ended with quarrels that left behind the bitterest personal feeling between those who had engaged in them, he very often brought together the antagonists, at entertainments given at his house for that purpose, and there, under the influence of his genial and kindly hospitality, all feeling of anger would pass away, and the erstwhile friends, who had become enemies, would forgive and forget the words of passion that had passed between them, and become friends again. He was a devoted, a tender and loving husband and father. His only child, a daughter, married a French officer. He built for his wife a splendid home in Paris, at which they lived during the time he was practicing law in England. Mr. Benjamin visited them at the end of nearly every week and spent his vacations with them. Mentally, he possessed a combination of great qualities. He had perceptive powers that enabled him to see through a proposition in an instant; a power of analysis that made separate every component part of a subject; a wealth of imagination from which he could adorn and beautify the driest subject, and powers of logic unsurpassed by any man of his day—a combination of great mental qualities that were bound to make him great even among the greatest. I heard him make his great speech at the African Church in Richmond, Virginia, in the beginning of 1865. The Commissioners appointed by Mr. Davis to meet persons named by Mr. Lincoln, to see if some basis could not be arrived at upon which negotiations for putting an end to the war could be entered upon, had returned and reported that the Federal authorities demanded an unconditional laying down of our arms and the disbandment of our armies as a condition to entering into any negotiations. The sentiment of the people and the sentiment of the army of Northern Virginia were unquestionably and overwhelmingly against the acceptance of any such terms. A mass meeting was held at the place mentioned. Every seat in the building, which seated, I think, three thousand, was filled, and in front of every door and window men were packed for yards around. Mr. Davis, Mr. Benja-

min, and others spoke. I can never forget the speech of Mr. Benjamin. He spoke for over an hour and kept the undivided and close attention of that immense audience throughout the time. Men forgot the discomforts of their situation and remembered only the words of burning eloquence that fell from the lips of the speaker. His voice was as sweet as the notes of a well tuned lute, his enunciation, not loud, but so clear and distinct that every syllable he uttered was heard by every person in that vast audience. His diction was as beautiful as a poem, and the impression made upon me at the time is best expressed by what I said to a friend upon my return from the speaking. I said to him, "Mr. Benjamin wandered in the gardens of Language, culled from them the sweetest and most lovely flowers and wreathed them into garlands of beautiful and patriotic thought." His style of argument was the most impressive and forcible. It was what was well called by an English critic that of the 'Didactic Statement.' His power of statement was superior to that of any man of his day. Many anecdotes are told of its effect, one of which I recall at this time. It is said that when he argued his first case before the Supreme Court of the United States his opponent was Mr. Reverdy Johnson, who stood at the very head of the bar of that section of the Union. Mr. Benjamin arose, made a brief, concise and clear statement of his case and took his seat. As he did so one of the Justices turned to another and said in a whisper loud enough to be heard over the Court room, "Brother so-and-so, that little Louisiana Jew has stated brother Johnson out of Court." In arguing important questions he would always begin his argument by a statement of his propositions and then proceed to enforce them by illustrations drawn from decided cases and elsewhere. Here it was that his rich imagination did him good service. It furnished him a ready and inexhaustible fund of illustrations, and these illustrations clothed in the beautiful language which was always at his command, first attracted the attention, then excited the admiration of, and, as a rule, finally carried conviction to

every tribunal or body which he addressed. His book on the "Law of Sales" is a masterpiece, and will, no doubt, become a legal classic. No law book ever written ever took so deep a hold on the profession or came so quickly into use. It had only been published a few months when it was recognized as authority in every Court of the English speaking people, and a library was considered incomplete without a copy. One day shortly after its publication, Baron Martin, one of the Judges of the Court of Exchequer, asked from the Bench for a copy of it. The Chief Clerk replied that he had never heard of it. "Never heard of it?" said the Baron, "Mind that I never take my seat here again without a copy of that book by my side." The book is written in the style in which he made his arguments. Each chapter considers some proposition, and starts out with its statement, and is then followed by a review of decided cases, both English and American, bearing upon the question. As illustrative of the proposition, take, as an example, his IV Chapter. Its subject is "Of the Thing Sold." His proposition is in these words: "As there can be no sale without a thing being transferred to the purchaser in consideration of the price received, it follows that if at the time of the contract the thing *has ceased to exist*, the sale is void." Then follows a synopsis of decided cases illustrative of the proposition. Certainly the impression his power made upon our English cousins was wonderful. The same Baron Martin said of him that he was "the greatest advocate that I have heard since Scarlett."

I cannot better conclude this paper than by quoting from two editorials appearing in two leading London dailies on the morning after his death. In speaking of his powers of debate one of them, the *Telegraph*, said:

It may be doubted whether any Lord Chancellor, assisted by noble and learned assistants, ever heard an advocate plead before them, in whom a comprehensive knowledge of jurisprudence, a singular force and lucidity of reasoning, and the most felicitous neatness and fluency of illustration and exposition were more

happily combined. It was of Mr. Benjamin that a brother barrister said, "He makes you see the very bale of cotton that he is describing as it lies upon the wharf at New Orleans."

And another, the *Advertiser*, I believe, said :

He excelled in handling, before an intelligent tribunal composed of trained lawyers, questions as to the legal effect of complicated facts, and problems which involved a reconsideration of authorities and a reversion to general principles. His attractive lucidity, his originality in suggesting even in hopeless cases arguments of more or less weight, and his power of conducting his hearers by easy stages and almost insensible gradations from common ground to conclusions from which they would have at first recoiled, enabled him to win remarkable victories.

There was much in the life of this truly great man and lawyer to admire and emulate, and it is to be hoped that at some time in the near future someone who has the ability to treat it as it deserves will write his biography so as to perpetuate his great genius as a lawyer and orator and his gentle and lovable qualities as a man, that the future may not lose knowledge of a man so worthy to be remembered and emulated.

HENRY CLAY TOMPKINS.